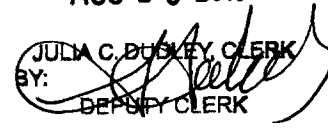


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

AUG 26 2015

JULIA C. DUBLEY, CLERK
BY: 
DEPUTY CLERK

JOHN A. HUTTON,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

Civil Action No. 7:14CV00310

ORDER

By: Hon. Glen E. Conrad
Chief United States District Judge

This matter was referred to United States Magistrate Robert S. Ballou, pursuant to 28 U.S.C. § 636(b)(1)(B) for proposed findings of fact and a recommended disposition. The Magistrate Judge submitted a Report and Recommendation on August 6, 2015, in which he recommends that the Commissioner's motion for summary judgment be denied, that the plaintiff's motion for summary judgment be granted in part, and that this case be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings). No objections to the Report and Recommendation have been filed, and the court is of the opinion that the Report and Recommendation should be adopted in its entirety.

It is accordingly

ORDERED

as follows:

1. The August 6, 2016 Report and Recommendation (Dkt. #22) is ADOPTED in its entirety;
2. The Commissioner's motion for summary judgment (Docket #16) is DENIED;
3. Plaintiff's motion for summary judgment (Docket #14) is GRANTED in part;

4. This case is REMANDED to the Commissioner for further consideration consistent with the report and recommendation. Upon remand, should the Commissioner be unable to decide this case in plaintiff's favor on the basis of the existing record, the Commissioner shall conduct a supplemental administrative hearing at which both sides will be allowed to present additional evidence and argument;
5. The parties are advised that the court considers this remand order to be a "sentence four" remand. See Melkonyan v. Sullivan, 501 U.S.89, 111 S. Ct. 2157 (1991); Shalala v. Schaefer, 509 U.S. 292, 113 S. Ct. 2625 (1193). Thus, this order of remand is a final order. Id. If the Commissioner should again deny plaintiff's claim for supplemental security income benefits, and should plaintiff again choose to seek judicial review, it will be necessary for plaintiff to initiate a new civil action within sixty (60) days from the date of the Commissioner's final decision on remand. See 42 U.S.C. § 405(g); and
6. This matter is STRICKEN from the active docket of the court.

The Clerk is directed to send a certified copy of this order to all counsel of record.

ENTER: August 26, 2015



Chief United States District Judge